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The Policies of Assurance Act, 1867.

WE give below a copy of the “Policies of Assurance Act” passed in the last session of Parliament. The Bill, as originally brought in by Sir Colman O’Loghlen, was much shorter, and open to various objections. It was hardly discussed at all in either House of Parliament, but nevertheless underwent many changes during its progress, which was watched with great interest out of doors, several meetings of actuaries and managers of Life Offices having been held in London and Edinburgh to consider the subject.

The original Bill introduced by Sir Colman O’Loghlen passed the House of Commons with little alteration. In the House of Lords it was referred to a Select Committee, which held one meeting only, and whose proceedings, judging from their report, were of the most summary character. No evidence was taken, but the committee cancelled the original Bill altogether, substituting for it an entirely new one, submitted to them by the managers of the Scotch Insurance Companies, and drawn by two counsel, who at the same time gave an opinion altogether hostile to the principle of making Policies assignable at law. The consequence was that the new Bill, as was remarked by Mr. Russell Gurney in the House of Commons, while professing to make policies legally assignable, contained words which were intended to render it practically inoperative. The Bill, thus amended, was sent back to the House of Commons, where several amendments were proposed by Sir Colman O’Loghlen, after consultation with a Committee of Actuaries in London, and carried. These amendments were mostly accepted by the House of Lords; but the very important one, to omit the words in the first clause, which we have placed in italics, was rejected. The result is the Act of Parliament as it now stands.

By its provisions the new principle is now for the first time introduced into our law, that the assignee of a life insurance policy may sue in his own name, and give a legal discharge to the Company for the policy monies, instead of being compelled to sue, and give the discharge, in the name of the original grantee of the policy. But the operation of this principle is greatly limited by the restriction that such assignee must have “the right to give an effectual discharge to the Company”; and doubts are entertained whether mortgagees (as distinguished from purchasers) will in any case be able to sue in their own names.

Furthermore, since it is very rarely that an action is brought to recover the sum assured under a life policy, the importance of the Act to the Insurance Companies is very trifling. They cannot, with any propriety, object to acknowledge notices of assignment, as

required by the Act; and the great majority have long been in the habit of doing so. Those Offices again, which have not hitherto stated on their policies their principal place of business, will find no hardship in doing so for the future.

The Act would have been much more acceptable to the Offices if it had enabled them in all cases to pay the sum assured under a policy to the mortgagee, without requiring the concurrence of the personal representatives of the assured, in the absence of a positive notice from them to the contrary. It is greatly to be hoped that a measure will shortly be carried for securing that object, which would be advantageous both to the Offices and to the public.

A correspondent writes to us on the subject of the Act. "It is unfortunate, in my opinion, that the operation of the Act is restricted to assignees 'possessing the right in equity to receive and the right to give an effectual discharge to the Assurance Company'—a restriction which it is to be feared will be the source of much litigation before its precise effect will be understood. It is doubtful, for example, whether a mortgagee of a policy has the power to give a discharge; and the troublesome questions which arise on the declaration of a bonus who are the proper parties to exercise an option as to its appropriation, will remain. In short, the Offices are in the position of Equity Judges in the case of every assignment—a function for which they are not qualified, and which it is neither the interest nor desire of the public that they should exercise.

"The provisions regarding notice are, I think, judicious. A notice to an agent will not be binding; on the other hand, some doubt may arise when the principal place of business of the Company is removed,—a not uncommon occurrence.

"The Schedule appended to the Act, it is feared, will be a dead letter, regard being had to the wording of the first clause.

"It is hardly likely that this Act will be final. I believe that the more the subject is discussed the more the conviction will grow, that Policies should be as readily transferable as Stock, Shares, or Bills of Exchange; and that at no distant time this object will be attained."

ANNO TRICESIMO & TRICESIMO PRIMO VICTORIÆ REGINÆ.

CAP. CXLIV.

An Act to enable Assignees of Policies of Life Assurance to sue thereon in their own Names.

[20th August, 1867.]

WHEREAS it is expedient to enable assignees of policies of life assurance to sue thereon in their own names:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Com-

mons, in this present Parliament assembled, and by the authority of the same, as follows:

Assignees of life policies may sue in their own names.

1. Any person or Corporation now being or hereafter becoming entitled, by assignment or other derivative title, to a policy of life assurance, *and possessing at the time of action brought the right in equity to receive and the right to give an effectual discharge to the Assurance Company liable under such policy for monies thereby assured or secured,* shall be at liberty to sue at law in the name of such person or Corporation to recover such monies.

Defence or reply on equitable grounds may be pleaded.

2. In any action on a policy of life assurance, a defence on equitable grounds, or a reply to such defence on similar grounds, may be respectively pleaded and relied upon in the same manner and to the same extent as in any other personal action.

Notice of assignment to be given.

3. No assignment made after the passing of this Act of a policy of life assurance shall confer on the assignee therin named, his executors, administrators, or assigns, any right to sue for the amount of such policy, or the monies assured or secured thereby, until a written notice of the date and purport of such assignment shall have been given to the Assurance Company liable under such policy at their principal place of business for the time being, or in case they have two or more principal places of business, then at some one of such principal places of business, either in England or Scotland or Ireland, and the date on which such notice shall be received shall regulate the priority of all claims under any assignment; and a payment *bond fide* made in respect of any policy by any Assurance Company before the date on which such notice shall have been received shall be as valid against the assignee giving such notice as if this Act had not been passed.

Principal places of business to be specified on policies.

4. Every Assurance Company shall, on every policy issued by them after the thirtieth day of September, one thousand eight hundred and sixty-seven, specify their principal place or principal places of business at which notices of assignment may be given in pursuance of this Act.

Assignment by endorsement or separate instrument.

5. Any such assignment may be made either by endorsement on the policy or by a separate instrument in the words or to the effect set forth in the Schedule hereto, such endorsement or separate instrument being duly stamped.

Notices of assignment to be acknowledged.

6. Every Assurance Company to whom notice shall have been duly given of the assignment of any policy under which they are liable shall, upon the request in writing of any person by whom any such notice was given or signed, or of his executors or administrators, and upon payment in each case of a fee not exceeding five shillings, deliver an acknowledgment in writing under the hand of the Manager, Secretary, Treasurer, or other Principal Officer of the Assurance Company of their receipt of such notice; and every such written acknowledgment, if signed by a person being *de jure* or *de facto* the Manager, Secretary, Treasurer, or other Principal Officer of the Assurance Company whose acknowledgment the same purports to be, shall be conclusive evidence as against such Assurance Com-

pany of their having duly received the notice to which such acknowledgment relates.

7. In the construction and for the purposes of this Act the expression "policy of life assurance," or "policy," shall mean any instrument by which the payment of monies, by or out of the funds of an Assurance Company, on the happening of any contingency depending on the duration of human life, is assured or secured; and the expression "Assurance Company" shall mean and include every Corporation, Association, Society, or Company now or hereafter carrying on the business of assuring lives or survivorships, either alone or in conjunction with any other object or objects.

Interpretation of terms.

8. Provided always, that this Act shall not apply to any policy of assurance granted or to be granted or to any contract for a payment on death entered into or to be entered into in pursuance of the provisions of the Acts sixteenth and seventeenth Victoria, chapter forty-five, and twenty-seventh and twenty-eighth Victoria, chapter forty-three, or either of those Acts, or to any engagement for payment on death by any Friendly Society.

Not to apply to contracts under certain Acts.

9. For all purposes this Act may be cited as "The *Short title.* Policies of Assurance Act, 1867."

Schedule.

I *A.B.* of, &c., in consideration of, &c., do hereby assign unto *C.D.* of, &c., his executors, administrators, and assigns, the [within] policy of assurance granted, &c. [*here describe the policy.*] In witness, &c.

HOME AND FOREIGN INTELLIGENCE.

UNDER the above heading, we purpose reprinting, among other matters, the Bonus Reports that are issued from time to time by the Life Insurance Companies of the United Kingdom. We believe that those Reports will be found to have a permanent interest attached to them—exhibiting, as they do, not only the growth of the particular Companies to which they refer, but also to a considerable extent the progress of the practice of life insurance in the country. In a less degree, they will also indicate, when compared together over a long series of years, the gradual change of opinion among actuaries as to the best method of ascertaining and exhibiting the financial position of an Office.

It will be found that the Reports in question differ widely as to the nature and amount of the information they contain; and it would for many reasons be better that there should be a greater degree of uniformity in that respect. Inasmuch, however, as anything in the way of comment on the affairs of particular Companies would be quite out of place in this *Journal*, it is thought better not to draw attention to any instances of redundant or deficient information. The Reports will therefore be given without comment, and, as far as practicable, in the exact form that they are issued by the various Companies. It will be necessary, however, to shorten them, by